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10/017,944	12/07/2001	Gerard Henricus Broeksteeg	PHNL 000737	7469

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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EXAMINER

RAMPURIA, SATISH

ART UNIT PAPER NUMBER

2191

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/017,944	Applicant(s) BROEKSTEEG ET AL.	
	Examiner Satish S. Rampuria	Art Unit 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*Response to Amendment*

1. This action is in response to the Amendment received on April 20, 2006.
2. The objection to drawing (Fig. 1 and 2) is withdrawn in view of Applicant's submission of replacement drawing along with annotated sheets with the amendment.
3. Claims amended by the applicant: 1 .
4. Claims pending in the application: 1-20.

*Response to Arguments*

5. Applicant's arguments with respect to claims have been considered but they are not persuasive.

In the remarks, the applicant has argued that:

- (i) The office action rejects claims 10-12 under the provision of 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Applicant respectfully, asserts that a carrier wave and signal are not inherently non-statutory.
- (ii) Fujiwara does not disclose or suggest at col. 2, line 65-col.3, line 7 or anywhere within the four corners of that reference, determining portions of the configurations information that need to be converted to be compatible with the update part and portions of the configuration information that do not need to be converted to be compatible with update part.

Examiner's response:

- (i) In response to Applicants argument, according the interim guidelines carrier wave and signals are non-statutory (<http://www.uspto.gov/web/offices/pac/writtendesc.pdf>).
- (ii) In response to Applicants argument, Fujiwara discloses within all corners in the application the automatically installing an update program. Fujiwara system automatically downloads software updates from the distributed network and install the updated software then updates or convert the client's computer configuration file to reflect the new (updated) parameters and requirements corresponding to the update program (see col. 2 to 3, lines 65-67 and 1-7) Nowhere, converting the configuration information as argued by the Applicants, is not equivalent to updating the configuration file. In addition, Fujiwara discloses matching version of the installed software based on that the updated program is downloaded and update the clients computer with updated version. Furthermore, Fujiwara system not only updates the configuration file, but also updates the registry of the software updates.

In response to Applicants argument that Fries et al., does not disclose or suggest the conversion of the configuration file, Applicant amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Therefore, the rejection is proper and maintained herein.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

*Claim Rejections - 35 USC § 101*

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 10-12 are **still** stand rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 10-12 is not limited to tangible embodiments. In view of Applicant's disclosure, specification page 7, line 9-16, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., computer readable medium) and intangible embodiments (e.g., transmission media, a carrier wave, a signal, etc.). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

To overcome this type of 101 rejection the claims need to be amended to include only the physical computer media and not a transmission media or other intangible or non-functional

media. For the specification at the bottom, carrier medium and transmission media would be not statutory but storage media would be statutory.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-6 and 8-20 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,301,710 to Fujiwara (hereinafter called Fujiwara).

**Per claim 1:**

Fujiwara disclose:

- A method of updating software (col. 2, line 32-33 “automatically installing an update program”) by replacing an original part of the software within a device by an updated part (col. 8, lines 46-48 “update program... contain replacement program instructions to update other software program”), the software being arranged to operate at least partly under the control of configuration information (col. 8, lines 26-28 “information file... contain information related to the configuration and functionality of either client 120 or update program”), the method comprising:
- reading the configuration information for the device and determining portions of the configuration information that need to be converted to be compatible with the update part

- and portions of the configuration information that do not need to be converted to be compatible with the updated part (col. 2, lines 65-67 “reads an information file... update program, and responsively updates client computer configuration files” and col. 2 to 3, lines 65-67 and 1-7 “...updates client computer configuration files to reflect new parameters and requirements corresponding to the update program...”)),
- placing those part of the configuration information that do not need to be converted to be compatible with the update part into storage area (col. 2 to 3, lines 65-67 and 1-7 “install module next reads an information file attached to the update program, and responsively updates client computer configuration files to reflect new parameters and requirements corresponding to the update program”)),
  - converting those portion of the configuration information that need to be converted to be compatible with the update part to a form that is compatible with the update part (col. 3, lines 4-6 “substitute registry in the computer system's software registries to avoid potential software conflicts between the update program and other software program” and col. 2 to 3, lines 65-67 and 1-7 “...updates client computer configuration files to reflect new parameters and requirements corresponding to the update program...”)).

Although, Fujiwara teach provide the update of software to a computer. Fujiwara is silent on storing the converted configuration information, and storing the updated part in the memory. However, this feature deemed to be inherent to the Fujiwara system, Fujiwara system shows updating a software with update of registry information and informing the user for the update via browser col. 3, lines 8-16. Fujiwara system would in inoperative if the converted format is not

compatible and not stored in the memory of client device.

**Per claim 2:**

The rejection of claim 1 is incorporated, and further, Fujiwara disclose:

- wherein converting the configuration information comprises converting an original set (206) with original configuration parameters into an updated set (210) with updated configuration parameters (col. 2, lines 65-67 “The install... updates client computer configuration files to reflect new parameters and requirements corresponding to the update program”).

**Per claims 3 and 4:**

The rejection of claim 2 is incorporated, and further, Fujiwara disclose:

- copying one of the original configuration parameters into the updated set (col. 2, lines 66-67 “updates client computer configuration files to reflect new parameters”),
- deleting one of the original configuration parameters from the original set (col. 2, lines 66-67 “updates client computer configuration files to reflect new parameters”),
- converting one of the original configuration parameters of the original set into one of the updated configuration parameters of the updated set (col. 2, lines 66-67 “updates client computer configuration files to reflect new parameters”),
- adding a new configuration parameter as one of the updated configuration parameters of the updated set (col. 4, lines 4-5 “create unique substitute registries that correspond to the downloaded update programs”).



**Per claim 5:**

The rejection of claim 2 is incorporated, and further, Fujiwara disclose:

- wherein the original set (206) is located in a first file (118) accessible by the original part (116) of the software and the updated set (210) is located in a second file (128) accessible by the updated part (col. 9, lines 17-19 “advantageously creates substitute registry 825 based on information obtained from information file 510 of download file 420”. Also, figs. 8(a) to 8(b) and related discussion).

**Per claim 6:**

The rejection of claim 2 is incorporated, and further, Fujiwara disclose:

- wherein converting the original set (206) with the original configuration parameters into the updated set (210) with the updated configuration parameters is carried out on the basis of a conversion instruction (302) specifying how the original set is to be converted into the updated set (col. 5, lines 11-14 “automatically installs the downloaded software programs to replace outdated versions of existing software programs, or, alternately, to install new software programs that become necessary for use by client 120”).

**Per claims 8 and 9:**

The rejection of claim 1 is incorporated, and further, Fujiwara disclose:

- wherein the software (116) resides in a device (102) and wherein the updated part of the software is downloaded from a remote location (106) to the device (col. 7, lines 56-58 “network page 410 and download file 420 preferably are located on one or more network servers (not shown) within network 100”. Also, fig. 6 and related discussion).

*Claims 10-12* are the computer program product claim corresponding to method claim 1 and rejected under the same rationale set forth in connection with the rejection of claim 1 above.

**Per claim 13:**

Fujiwara disclose:

- A device comprising software and updating means (col. 2, line 32-33 “automatically installing an update program”) for updating the software within the device replacing an original part of the software by an updated part (col. 8, lines 46-48 “update program... contain replacement program instructions to update other software program”), the software being arranged to operate at least partly under the control of configuration information (col. 8, lines 26-28 “information file... contain information related to the configuration and functionality of either client 120 or update program”), and the updating means comprising:
  - read means for reading the configuration information for the device and determining portion of the configuration information that need to be converted to be compatible with the update part and portions of the configuration information that do not need to be converted to be compatible with the updated part into a data area (col. 2, lines 65-67 “reads an information file... update program, and responsively updates client computer

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configuration files” and col. 2 to 3, lines 65-67 and 1-7 “...updates client computer configuration files to reflect new parameters and requirements corresponding to the update program...”),

- conversion means for converting those portions of the configuration information that need to be converted to be compatible with the update part to a form that is compatible with the update part (col. 3, lines 4-6 “substitute registry in the computer system's software registries to avoid potential software conflicts between the update program and other software program” and col. 2 to 3, lines 65-67 and 1-7 “...updates client computer configuration files to reflect new parameters and requirements corresponding to the update program...”).

Although, Fujiwara teach provide the update of software to a computer. Fujiwara is silent on storing the converted configuration information, and storing the updated part in the memory.

However, this feature deemed to be inherent to the Fujiwara system, Fujiwara system shows updating a software with update of registry information and informing the user for the update via browser col. 3, lines 8-16. Fujiwara system would be inoperative if the converted format is not compatible and not stored in the memory of client device.

**Per claim 14:**

The rejection of claim 13 is incorporated, and further, Fujiwara disclose:

- the read means further comprising a read sub-component that determines which portions of the configuration information that need to be converted, that paces those portions of

the configuration information that do not need to be converted to be compatible with the update part into the data storage area (col. 2, lines 65-67 “reads an information file... update program, and responsively updates client computer configuration files” and col. 2 to 3, lines 65-67 and 1-7 “...updates client computer configuration files to reflect new parameters and requirements corresponding to the update program...”), and

- the conversion means further comprising a convert data sub-component that takes those portions of the configuration that need to be converted to be compatible with the update part and converts those portions and placed them into the data storage area (col. 2, lines 65-67 “reads an information file... update program, and responsively updates client computer configuration files” and col. 2 to 3, lines 65-67 and 1-7 “...updates client computer configuration files to reflect new parameters and requirements corresponding to the update program...”).

**Per claim 15:**

The rejection of claim 14 is incorporated, and further, Fujiwara disclose:

- wherein the convert data sub-component further comprises converting those portions of the configurations information that need to be converted to be compatible with the update part into a form and structure that is the same as that of the update part (col. 3, lines 4-6 “substitute registry in the computer system's software registries to avoid potential software conflicts between the update program and other software program” and col. 2 to 3, lines 65-67 and 1-7 “...updates client computer configuration files to reflect new parameters and requirements corresponding to the update program...”).

**Per claims 16:**

The rejection of claim 13 is incorporated, and further, Fujiwara disclose:

- wherein the device further comprises a conversion instruction area that specifies how the original part is to be converted into the updated part (col. 3, lines 4-6 “substitute registry in the computer system's software registries to avoid potential software conflicts between the update program and other software program” and col. 2 to 3, lines 65-67 and 1-7 “...updates client computer configuration files to reflect new parameters and requirements corresponding to the update program...”).

**Per claim 17:**

The rejection of claim 16 is incorporated, and further, Fujiwara disclose:

- a set default sub-component set that sets defaults for parameters as specified in the conversion instruction area (col. 3, lines 4-6 “substitute registry in the computer system's software registries to avoid potential software conflicts between the update program and other software program” and col. 2 to 3, lines 65-67 and 1-7 “...updates client computer configuration files to reflect new parameters and requirements corresponding to the update program...”).

**Per claim 18:**

The rejection of claim 17 is incorporated, and further, Fujiwara disclose:

- a write sub-component set that read parameters to the configuration information from the data storage area sets and stores them in the first means (col. 3, lines 4-6 “substitute registry in the computer system's software registries to avoid potential software conflicts between the update program and other software program” and col. 2 to 3, lines 65-67 and 1-7 “...updates client computer configuration files to reflect new parameters and requirements corresponding to the update program...”).

**Per claim 19:**

The rejection of claim 1 is incorporated, and further, Fujiwara disclose:

- Wherein the storage area that contains data placed by the steps of reading and storing is a logically divided storage area (col. 3, lines 4-6 “substitute registry in the computer system's software registries to avoid potential software conflicts between the update program and other software program” and col. 2 to 3, lines 65-67 and 1-7 “...updates client computer configuration files to reflect new parameters and requirements corresponding to the update program...”).

**Per claim 20:**

The rejection of claim 1 is incorporated, and further, Fujiwara disclose:

- Wherein the storage area that contains data placed by the steps of reading and storing is a physically different storage area (col. 3, lines 4-6 “substitute registry in the computer system's software registries to avoid potential software conflicts between the update program and other software program” and col. 2 to 3, lines 65-67 and 1-7 “...updates

client computer configuration files to reflect new parameters and requirements corresponding to the update program...”).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujiwara in view of US Patent No. 6,425,125 to Fries et al. (hereinafter called Fries).

**Per claim 7:**

The rejection of claim 6 is incorporated, and further, Fujiwara does not explicitly disclose wherein the conversion instruction is a table.

However, Fries discloses in an analogous computer system wherein the conversion instruction is a table (col. 1, lines 60-67 “upgrade server derives a two-dimensional table... each entry represents a length of a longest common sub string beginning at a first position in the old character string and at a second position in the new character string... upgrade server... ascertains the longest common string from the table”).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of converting string/instructions using a table as taught by Fries into the method of updating software as taught by Fujiwara. The modification would be obvious because of one of ordinary skill in the art would be motivated to use the table

while updating software to provide efficient transfer of instruction with using less memory for thin clients as suggested by Fries (col. 1, lines 32-35).

*Conclusion*

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Satish S. Rampuria** whose telephone number is **(571) 272-3732**. The examiner can normally be reached on **8:30 am to 5:00 pm** Monday to Friday except every other Friday and federal holidays. Any inquiry of a general nature or relating to the status of this application should be directed to the **TC 2100 Group receptionist: 571-272-2100**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wei Y. Zhen** can be reached on **(571) 272-3708**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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